

Praveen Kumar.

Versus

State of Rajasthan
& ors.

S.B. Civil Writ Petition No. 5575/2004.

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Date of Order: February 21, 2007

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Parikshit Nayak, for the petitioner.
Mr. Rameshwar Dave, Deputy Govt. Advocate.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks quashing of the order dated 21-5-2004 (Annx.6) to the extent of counting the qualifying service of the petitioner for the purpose of computation of pension with effect from 7-3-1985 instead of 7-3-1983.

The facts and circumstances giving rise to the instant writ petition are that the petitioner was initially appointed/engaged as Beldar in Mahi Project, Banswara as work-charged employee in the Irrigation Department of the State

Government, with effect from 7-3-1983 and thereafter he was declared semi-permanent on 7.3.1985. The petitioner submitted an application on 1-11-2003 seeking voluntary retirement from the service, which was accepted by the respondents and he was retired with effect from 1-2-2004. The petitioner submitted an application for release of pension counting his service with effect from the date of his initial appointment i.e. 7-3-1983. By the order Annx.6 dated 21.5.2004, the respondents processed the pension papers counting the qualifying services of the petitioner from the date the petitioner was conferred with the status of semi-permanent, i.e. 7-3-1985. Aggrieved by the order Annx.6 dated 21-5-2004, to the extent of counting his qualifying service from the date of conferment of semi-permanent status, the petitioner has filed the instant writ petition.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner that a Notification Annx.8 was issued by His Excellency the Governor of the State of Rajasthan on 6-3-1977 to the effect that the provision contained below rule 14 of the Rajasthan Civil Services (Pension) Rules, 1996, under which an absorption/appointment of work-charges employees on regular post, the period of services rendered by them as work-charged employees while drawing pay in the pay scale prescribed for them, is counted as working qualifying for pension and,

therefore, according to the learned counsel for the petitioner, as the petitioner was engaged as work-charge employee with effect from 7-3-1983, therefore, for the purpose of counting the qualifying service for the purpose of computation of pension under the Rajasthan Civil Services (Pension) Rules, 1996 (for short, "the Rules of 1996" hereinafter) the period from the date of his initial appointment as work-charge employee is to be counted.

In the reply filed by the respondent No.1, the fact pleaded in the writ petition with regard to Annx.8 dated 6.3.1997 has not been disputed. In the circumstances, therefore, in my view, the petitioner is entitled for the pension by counting his qualifying service from the date of his initial appointment as work-charge employee, i.e. 7-3-1983 instead of from the date of conferment of semi-permanent status w.e.f. 7-3-1985.

In the result, the writ petition is allowed. The impugned order Annx.6 dated 21-5-2004, to the extent of counting the qualifying service of the petitioner for the purpose of computation of pension under the Rules of 1996 with effect from 7-3-1985, is modified to the extent that the petitioner is entitled for pension counting his qualifying service with effect from the date of his initial appointment as work-charge employee i.e. with effect from 7-3-1983. The respondents are directed to finalize the pension case of the petitioner in the light

of the above directions within the period of three months from the date of production of a certified copy of this order. The shall be no order as to costs.

(H.R. PANWAR), J.

mcs